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In re application of : Jerome D. Johnson et al. Docket No.: P65329  
Application No. : 08/879,070 Group Art Unit: 3627  
Filed : June 19, 1997 Examiner: Vanel Frenel  
For : Inventory Sales System and Method

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Transmitted herewith is a **Power of Attorney and Loss of Entitlement & Petition Under 35 USC 1.28(c)** in the above-captioned application.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims: 20			x 25=	\$ 0	x 50=	\$
**Indep. Claims: 3			x 100=	\$ 0	x 200=	\$
Multiple Dependent Claims Presented			+180=	\$	+360=	\$
Extension Fees for Month				\$		\$
See Attached Computation				\$	500	\$ 705
Total:				\$ 0	Total:	\$ 705

\* If less than 20, write 20

\*\*If less than 3, write 3

☒ Please charge the above fees to a credit card as authorized on the attached form PTO-2038.

☐ Please charge my Deposit Account No. **50-2929** in the amount of \$ .

☐ A Check in the amount of \$ \_\_ to cover the necessary fee is included.

☒ The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. **50-2929**:

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 CFR 1.136)(a)(3).

April 16, 2007  
Date

Abraham Hershkovitz  
Reg. No. 45,294

P65329.A01



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jerome D. Johnson et al.

Tech. Center: 3627

Appl. No.: 08/879,070

Examiner: Vanel Frenel

Filed : June 19, 1997

For : Inventory Sales System and Method

**LOSS OF ENTITLEMENT TO SES AND  
PETITION TO EXCUSE ERRORS IN SMALL ENTITY STATUS  
AND ACCEPT PAYMENT OF FEES AS A LARGE ENTITY  
UNDER 37 C.F.R. § 1.28(c)**

**Mail Stop PETITION**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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01 FC:1251

120.00 OP

Sir:

Pursuant to 37 C.F.R. §1.27(g)(2), the Applicant hereby informs the PTO that the above-identified patent application is no longer eligible for small entity status.

Additionally, this is a petition under 37 C.F.R. § 1.28(c) to excuse errors in the inadvertent assertion of small entity status and to accept the payment of fees as a large entity for the above-identified patent application.

37 C.F.R. § 1.28(c) provides a procedure as to how errors in small entity status are excused.

If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small

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entity status as required by § 1.27(g)(2), the error will be excused upon compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of 37 C.F.R. § 1.28(c), and the deficiency payment requirement of paragraph (c)(2) of this section:

(1) Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent; and

(2) The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

37 C.F.R. § 1.28(c) also states that:

(i) The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity.

(ii) An itemization of the total deficiency payment is required.

The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The present patent application became subject to a license agreement to a large entity on January 28, 1994. The filing fee and other fees during prosecution were inadvertently paid in a small entity amount. During a review of the file history of the present application which was recently transferred to the Firm of the undersigned, it was discovered that a payment of the filing fee and other prosecution fees were made inadvertently in a small entity amount.

According to the requirements of paragraphs (c)(1) and (c)(2) of 37 C.F.R. § 1.28(c), the Applicant submits the following:

(1) This paper is submitted herein specifically for U.S. Patent Application No. 08/879,070 and is limited to the deficiency payment for this patent.

(2) The required payment of deficiency owed of \$705 as set forth in 37 C.F.R. § 1.28(c) is enclosed herewith.

Accordingly, the Applicant provides the calculation of the deficiency owed according to paragraph (i) and the itemization of deficiency payment according to paragraphs (ii)(A)-(D) as follows:

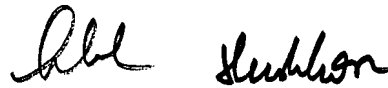
(A) Type of fee that that was erroneously paid as a small entity along with the current fee amount for a non-small entity:

(i) Extension of Time for Response within One Month: \$120 (Fee

Payment in the amount of \$705 is enclosed. The Commissioner is hereby authorized to charge any additional fees, or credit any overpayment, to Deposit Account No. 50-2929.

Should the Deciding Official have any questions or comments regarding this matter, the undersigned may be contacted at the below-listed telephone number.

Respectfully submitted,  
Jerome D. Johnson et al.

A handwritten signature in black ink, appearing to read 'Abraham HersHKovitz', written over a horizontal line.

Abraham HersHKovitz  
Reg. No. 45,294

April 16, 2007  
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Code 1251);

(ii) Request for Continued Examination: \$790 (Fee code 1801); and

(iii) Extension of Time for Response within Two Months: \$450 (Fee Code 1252).

(B) The small entity fee actually paid and when:

(i) Extension of Time for Response within One Month: \$60 paid on April 25, 2005;

(ii) Request for Continued Examination: \$385 paid on July 20, 2004; and

(iii) Extension of Time for Response within Two Months: \$210 paid on July 20, 2004.

(C) The deficiency owed amount for fee erroneously paid:

(i) Extension of Time for Response within One Month: \$60 (\$120 - \$60);

(ii) Request for Continued Examination: \$405 (\$790 - \$385); and

(v) Extension of Time for Response within Two Months: \$240 (\$450 - \$210).

(D) The total deficiency payment owed: \$705 (\$60 + \$405 + \$240).